

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL 2327 JOSEPH R. GOODWIN U.S. DISTRICT JUDGE
THIS DOCUMENT RELATES TO ALL CASES	

**RESPONSE OF DEFENDANTS TO “MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO INTERVENE AND TO SEEK STAY AND AMENDMENT OF PTO #190”**

Ethicon, Inc. and Johnson & Johnson (“Defendants”), by counsel, responds to the Motion to Intervene to Seek Stay and Amendment of PTO #190 filed by Intervenor SciSafe, Inc. (ECF No. 1724). By its motion, SciSafe seeks to amend PTO #190 to allow SciSafe to continue to store mesh explants that are the subject of this multidistrict litigation rather than ship the mesh explants to the agreed repository Steelgate, Inc. as required by PTO #121 and PTO #190.

Defendants oppose the Motion to Intervene and also ask that the Court deny the Motion to Stay and to Amend PTO #190. The parties briefed and argued mesh preservation issues in this MDL though “Defendants Motion for an Order Requiring Preservation of Explanted Mesh,” heard by Magistrate Eifert on June 13, 2014 (ECF No. 1159). Among other things, the Court ordered the parties in PTO #121 to determine “an independent third party repository” to keep the mesh explants. Plaintiffs proposed Steelgate as the independent third party repository. After conducting due diligence on the proposal, Defendants agreed to Steelgate. The negotiated protocol for mesh preservation is set forth in PTO #190, including the obligation for Plaintiffs to

deliver mesh explants to Steelgate. There is no reason for the Court or the parties to make an exception for SciSafe and its clients or any other parties where the parties have briefed, argued and negotiated that Steelgate, Inc. in Bradenton, Florida should be the third party repository responsible for holding the mesh explants involved in this MDL.

Wherefore, Defendants request that the Court deny the Motion to Intervene, the Motion to Stay and the Motion to Amend PTO #190 and order that SciSafe be required to deliver to Steelgate forthwith the more than 250 explanted Ethicon mesh devices as required by PTO #190 and for such other and further relief the Court deems proper.

Defendants Ethicon, Inc. and Johnson & Johnson

By Counsel

/s/ David B. Thomas

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CERTIFICATE OF SERVICE

I, David B. Thomas, certify that on October 23, 2015, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ David B. Thomas

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